

Notice of Allowability

Application No.

09/604,325

Examiner

Bridget E. Bunner

Applicant(s)

ZSEBO ET AL.

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 25 September 2003.
2. ☒ The allowed claim(s) is/are 71-74, 79-89, 97, 99-109 (renumbered as claims 1-27, respectively).
3. ☒ The drawings filed on 26 June 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Nabeela McMillian on February 17, 2004.

The application has been amended as follows:

Please cancel claims 75-78, 90-96, 98, 110-116

In claim 79, line 1: Delete "or 75"

In claim 81, line 1: Delete "or 75"

In claim 99, line 1: Delete "or 98"

In claim 101, line 1: Delete "or 98"

Claim 71 (Amended). A method of stimulating proliferation [or differentiation] of melanocyte cells in a human, the method comprising the step of administering to the human, a[n] therapeutically effective amount of stem cell factor (SCF) polypeptide and optionally a pharmaceutically acceptable carrier.

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Claim 97 (Amended). A method of stimulating proliferation [or differentiation] of melanocyte cells in a human, the method comprising the step of administering to the human, a[n] therapeutically effective amount of a stem cell factor (SCF) polypeptide having the amino acid sequence of SEQ ID NO: 44, SEQ ID NO: 46, or SEQ ID NO: 63, or biologically active fragments thereof that stimulate growth of melanocyte [hematopoietic progenitor] cells, and optionally a pharmaceutically acceptable carrier.

Informal Examiner's Amendment

1. Please delete the title of the invention of the instant application and insert "METHOD OF STIMULATING GROWTH OF MELANOCYTE CELLS BY ADMINISTERING STEM CELL FACTOR".

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Conclusion

It is noted that the Examiner's amendment to the claims served to clarify the claims. Applicant has the right to file divisional or continuation applications to protect the inventions in the cancelled claims. In a teleconference with Applicant's representative, Nabeela McMillian, on 19 February 2004, it was confirmed that Applicant reserved the right to file continuing applications.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bridget E. Bunner whose telephone number is (571) 272-0881. The examiner can normally be reached on 8:30-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz can be reached on (571) 272-0887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Elizabeth C. Kemmerer

BEB
Art Unit 1647
18 February 2004

**ELIZABETH KEMMERER
PRIMARY EXAMINER**